IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3177 of 2007()

CRIME NO.303/07 OF KANNUR TOWN POLICE STATION

PETITIONER: ACCUSED:

ALLI MUHAMMED,
S/O. PARAYIL MUHAMMED, KUNNUMKAI,NEELESWARAM.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENTS: STATE AND DEFACTO COMPLAINANT:

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1. STATE OF KERALA,
(SUB INSPECTOR OF POLICE, KANNUR TOWN POLICE STATION), REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. USMAN MAULAVI,
S/O. KUNJI MUHAMMED MAULAVI, NOOR MAHAL, OTHUKKANGAL P.O., KOOTTAKKAL (VIA),MALAPPURAM DIST

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3177 of 2007

Dated this the 25th day of October 2007

O R D E R

The petitioner is the sole accused in a crime registered under Section 420 I.P.C. The second respondent herein is the de facto complainant. Investigation is complete. Final report has already been filed. The petitioner has come to this court along with the second respondent to report that the disputes between them have been settled. It is prayed that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against the petitioner.

2. The offence is compoundable with permission of the court under Section 320 Cr.P.C. The matter has been settled between the parties and the second respondent has compounded the offence. It is for the second respondent now to appear before the learned Magistrate and report such composition. Thereupon, the learned Magistrate must proceed to pass appropriate orders under Section 320 Cr.P.C. Instead of doing that, the parties have come before this court seeking invocation of the jurisdiction under Section 482 Cr.P.C to quash the proceedings. I am of the opinion that the parties must resort to the remedy available under the code to bring to premature termination the proceedings against the petitioner. In every case,

where the parties have compounded the offence, it must be held to be impermissible for the parties to run to this court bypassing the court before which the proceedings are pending. This court has the jurisdictional competence to invoke the powers under Section 482 Cr.P.C and to bring to premature termination the proceedings against the petitioner. But in the facts and circumstances of this case; that will definitely be sending out a wrong and improper message and an unnecessary invitation to the parties to come to this court in cases where the relief can and must certainly be sought before the learned Magistrate.

3. This petition is in these circumstances dismissed. But I may hasten to observe that if the second respondent appears before the learned Magistrate and seeks composition under Section 320 Cr.P.C, the learned Magistrate must proceed to pass appropriate orders on merits on the date of such application itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007